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Atty. Docket No. GRA31 P-303

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Art Unit : 1761
Examiner : Adepeju Omolola Pearse
Applicant : Nirmal K. Sinha et al.
Appln. No. : 10/624,225
Filing Date : July 22, 2003
Confirmation No. : 6962
For : **PROCESS FOR CONVERTING BRINED SWEET
CHERRIES INTO SWEETENED DRIED RED TART
CHERRY-LIKE PRODUCTS AND STABILIZED BLACK
CHERRY-LIKE PRODUCTS**

Commissioner for Patents
P. O. Box 1450
Alexandria, Virginia 22313-1450

Dear Sir:

DECLARATION OF NIRMAL K. SINHA

I, Dr. Nirmal K. Sinha, do hereby declare as follows:

1. I hold a Bachelor of Science Degree, a Masters Degree, and a Doctorate Degree in Food Science from the Department of Food Science and Human Nutrition of Michigan State University.

2. I have worked for the National Dairy Development Board of India, I have worked as a Graduate Research Assistant, and a Research Associate for Michigan State University. Since 1996, I have been employed as the Director of Research and Development or the Vice President of Research and Development for Graceland Fruit, Inc. of Frankfort, Michigan. I am a Member of the American Chemical Society, The Institute of Food Technologies, and the American Association of Cereal Chemists.

3. A true copy of my *curriculum vitae* is attached hereto, which lists the foregoing information, as well as further synopsis of my work experience and a listing of my publications.

4. I am one of the named inventors of U. S. Patent Application Serial No. 10/624,225.

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5. I have read the Office Action mailed July 19, 2006, in U. S. Patent Application Serial No. 10/624,225. I have carefully studied the prior art relied upon by the Examiner in rejecting the patent application, namely, U. S. Statutory Invention Registration No. H1014 to Kraut et al.; Japanese Patent No. JP 60078536 to Hiroto; U.S. Patent No. 4,350,711 to Kahn et al.; U.S. Patent No. 6,479,092 B1 to Wettlaufer; U.S. Patent No. 6,254,919 B1 to Phillips, and U.S. Patent No. US 5,277,922 to Rejimbai et al.

6. Japanese Patent No. JP 60078536 to Hiroto discloses a process for preparing individually quick frozen (IQF) raw fruit which prevents the fruit pulp from damage.

7. Freezing cherries in water softens the firm tissue of the brined cherries. Therefore, if one wanted to prevent fruit pulp from damage, one would not freeze the fruit in water.

8. U.S. Patent No. US 5,277,922 to Rejimbai et al. disclose a method for preserving fruits characterized by juice sacs and rag, such as oranges. Moreover, in Rejimbai et al., the citrus fruit is frozen to preserve and not to soften the firm tissue of the citrus fruit. Nothing in Rejimbai et al. teaches or suggests that the disclosed method can be used with all fruit, or any fruit other than those characterized by juice sacs and rag.

9. Cherries are not a fruit characterized by juice sacs and rag.

10. A primary difference between lemon juice and a lemon flavorant is the acidity. Lemon juice concentrate has higher acidity than a lemon flavorant.

11. Lemon juice and lemon flavorant are two different ingredients, each having a specific function. In converting brined cherries to black sweet cherry products, the addition of lemon juice, as opposed to merely a lemon flavorant, to an infusion bath changes the Brix to acidity ratio of the infused cherries so that the infused cherries more closely mimic the natural taste of black sweet cherries.

12. In the claimed process, lemon juice is added to increase the acidity and not to import lemon flavor.

13. Infusion is a process by which water in a fruit is forced out of the fruit and is replaced by the soluble solids of the infusion bath. Initially, the fruit has a Brix level less than

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the Brix level of an infusion bath. When infusion is complete, the Brix level of the fruit will have increased and the Brix level of the liquid contained in the infusion bath will have decreased.

14. The Brix level of the liquid affects the final Brix of the infused fruit. The greater the level of Brix in the infusion bath, the greater the amount of soluble solids and the higher the final Brix of the infused fruit.

15. All statements made herein of my own knowledge are true and all statements made on information and belief are believed to be true, and further, these statements are made with the knowledge that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements may jeopardize the validity of this application or any patent issued thereon.

October 19, 2006
Date

Nirmal K. Sinha
Nirmal K. Sinha